

AMENDED IN SENATE MAY 21, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 4, 2013

SENATE BILL

No. 720

Introduced by Senator Correa
(Coauthors: Senators Lieu and Roth)

February 22, 2013

An act to amend Section 409.3 of the Military and Veterans Code, relating to military service.

LEGISLATIVE COUNSEL'S DIGEST

SB 720, as amended, Correa. Military service: benefits.

Existing law authorizes a service member to apply to the court for relief of an obligation, liability, tax, or assessment, as specified. Existing law authorizes, in the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument, as specified, a stay of the enforcement of the obligation during the applicant's period of military service and, from the date of termination of the period of military service or from the date of the application if made after the service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant or any part of the combined period, as specified.

This bill would instead authorize, in the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument, a deferment of the payments due on the obligation for a period of time equal to the ~~service member's~~ period of military service, as specified. The bill would prohibit penalties from

being imposed on the nonpayment of principal or interest during this period and interest from being charged or accumulated on the principal or interest on which the payment was delayed. The bill would also prohibit foreclosure or repossession of property on which payment has been deferred, as specified. The bill would require mortgage payments deferred during this period to be due and payable upon the occurrence of specified conditions. The bill would provide that a service member with a mortgage subject to an impound account for the payment of property taxes, special assessments, and certain insurance shall not be relieved from making monthly payments, as specified, and that a service member shall not be precluded from making payments toward mortgage payments deferred, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 409.3 of the Military and Veterans Code
2 is amended to read:
3 409.3. (a) A service member may, at any time during his or
4 her most current period of military service or within six months
5 thereafter, petition a court for relief in respect of any obligation
6 or liability incurred by the service member before the effective
7 date of the orders for his or her most current period of military
8 service or in respect of any tax or assessment whether falling due
9 before or during his or her most current period of military service.
10 (b) The court shall set a hearing on the petition within 25 days
11 from the date the petition is filed, unless the court shows good
12 cause for extending the date of the hearing. The petition shall be
13 served at least 10 days before the hearing. The respondent shall
14 file and serve a response to the petition at least five days before
15 the hearing.
16 (c) The court shall not charge a filing fee or court costs for a
17 petition filed pursuant to this section.
18 ~~(d) If the court, after notice and hearing, finds the ability of the~~
19 ~~service member to comply with the terms of any such obligation~~
20 ~~or liability, or to pay the tax or assessment, has been materially~~
21 ~~affected by reason of his or her most current period of military~~
22 ~~service, the court may grant the following relief:~~

~~(1) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a deferment of the payments due on the obligation for a period of time equal to the service member's period of military service, even if the service member requests such relief after the start of his or her current period of military service, subject to subdivision (a); and even if such payments extend beyond the termination of the current period of military service. The obligation shall be extended for the period of time that payments were deferred, and the deferred payments shall be paid in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as may be just.~~

(d) If, after notice and hearing, the court finds the ability of the service member to comply with the terms of any such obligation or liability, or to pay any such tax or assessment, has been materially affected by reason of his or her most current period of military service as defined in this chapter, the court may grant the following relief:

(1) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a deferment of the payments due on the obligation for a period of time equal to the period of military service, even if the service member requests the relief after the start of his or her current period of military service, subject to subdivision (a), and even if such payments extend beyond the termination of the period of military service. The obligation shall be extended for the period of time that payments were deferred, and the deferred payments shall be paid in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as may be just.

(2) In the case of any other obligation, liability, tax, or assessment, a deferment of any payments on the obligation during the service member's period of military service and, from the date of termination of the period of military service or from the date of

1 application if made after the service, for a period of time equal to
2 the period of military service of the applicant or any part of that
3 period, subject to payment of the balance of principal and
4 accumulated interest due and unpaid at the date of termination of
5 the period of military service or the date of application, as the case
6 may be, in equal periodic installments during the extended period
7 at the rate of interest as may be prescribed for the obligation,
8 liability, tax, or assessment, if paid when due, and subject to any
9 other terms as may be just.

10 (e) (1) When any court has granted a deferment as provided in
11 this section, no fine or penalty shall accrue during the period the
12 terms and conditions of the deferment are complied with by reason
13 of failure to comply with the terms or conditions of the obligation,
14 liability, tax, or assessment in respect of which the deferment was
15 granted, including penalties on the nonpayment of principal or
16 interest during this period. Interest shall not be charged or
17 accumulated on the principal or interest on which the payment was
18 delayed. Foreclosure or repossession of property on which payment
19 has been deferred shall not take place during the period specified
20 in this section.

21 (2) If a person has charged or accrued a fine or penalty in
22 violation of paragraph (1), that person shall be liable for actual
23 damages, reasonable attorney's fees, and costs incurred by the
24 injured party as a result of the violation.

25 (f) Notwithstanding subdivision (d), any mortgage payments
26 deferred pursuant to this section are due and payable upon the
27 earlier of the following:

28 (1) The sale of the property or other event specified in the
29 documents creating the obligation permitting the lender to
30 accelerate the loan, other than a deferment of payments authorized
31 by this section.

32 (2) Further encumbrance of the property other than for
33 preservation or protection of the property.

34 (3) The maturity of the obligation, as defined under the terms
35 of the documents creating the obligation, or, if applicable, as
36 extended pursuant to subdivision (d).

37 (g) This section shall not relieve a service member with a
38 mortgage subject to an impound account for the payment of
39 property taxes, special assessments, mortgage insurance, and hazard
40 insurance from making monthly payments of an amount that is at

1 least sufficient to pay these amounts, unless the borrower and
2 lender agree to a lesser amount.

3 (h) This section shall not preclude a service member from
4 making payments toward the mortgage payments deferred before
5 the occurrence of any of the events in subdivision (d).

6 (i) This section shall not permit a service member ordered to
7 military service to obtain a delay, deferment, or stay on an
8 obligation to pay child support. This section shall not preclude a
9 service member ordered to military service from seeking a
10 modification of an order to pay child support due to a reduction
11 in income resulting from the order to service, or from seeking the
12 imposition of the maximum interest rate provided by this chapter
13 on arrearages in child support payments existing before the order
14 to service.